IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6937 of 2005

For Approval and Signature:

HON'BLE MR JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DIVISIONAL CONTROLLER,STATE TRANSPORT CORPORATION - Petitioner(s)

Versus

VINOD R. PANCHAL - Respondent(s)

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Appearance :

MRS VASAVDATTA BHATT for Petitioner No(s).: 1.
MR KM PAUL for Respondent No(s).: 1.

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CORAM :HON'BLE MR JUSTICE M.R. SHAH

Date : 12/07/2005

ORAL JUDGMENT

Rule. Mr.K.M.Paul, learned advocate waives service of rule on behalf of the respondent. With the consent of the learned advocates for the parties, the matter is heard finally.

(1) In this petition, the petition under Articles 226 and 227 of the Constitution of India, the petitioner GSRTC has challenged the judgment and award dated 9.9.2004 passed by the Industrial Tribunal, Ahmedabad in Reference (IT) No.409 of 1999 in allowing the said reference by quashing and setting aside the order passed by the disciplinary authority dated 17.5.95. The respondent workman was serving as the Driver. On 25.8.93 when the respondent workman was on duty, the bus driven by the respondent dashed with one private luxury bus, due to which, not only there was loss to the bus but one passenger lost his life and other 19 passengers had suffered injuries. Departmental inquiry came to be initiated against the respondent workman. On conclusion of the departmental inquiry holding the charge against the respondent proved with regard to rash and negligent driving, the disciplinary authority imposed punishment of withholding of seven yearly increments with future permanent effect. The respondent workman raised the industrial dispute which was referred to the Industrial Tribunal, Ahmedabad being Reference (IT) No.409 of 1999 for its adjudication. Considering the fact that the criminal case was filed only against the driver of the luxury bus and considering the fact that except the statement of the reporter, nobody supported the case that it was the respondent workman who was rash and negligent in driving the bus

which has caused a vehicular accident and considering the statement of two passengers who were traveling in the bus to the effect that it was the driver of the luxury bus who was rash and negligent, the Industrial Tribunal, Ahmedabad by its judgment and award dated 9.9.2004 allowed the aforesaid reference by quashing and setting aside the order of punishment imposed by the disciplinary authority dated 17.5.95. Being aggrieved and dissatisfied with the same, the petitioner corporation has preferred the present special civil application under Articles 226 and 227 of the Constitution of India.

(2) Ms.Vasavadatta Bhatt, learned advocate appearing on behalf of the petitioner corporation has vehemently submitted that when the Inquiry Officer on appreciation of evidence come to the conclusion that the respondent workman was rash and negligent and due to which there was vehicular accident in which one person has lost his life and other 19 passengers were injured, the Industrial Tribunal ought not to have quashed and set aside the order of punishment imposed by the disciplinary authority and ought not to have held that charges leveled against the respondent workman stand not proved and therefore, it is requested to allow the present special civil application.

(3) Shri K.M.Paul, learned advocate appearing on behalf of the respondent workman has tried to support the judgment and award passed by the Industrial Tribunal. He has submitted that except the statement of the reporter, there is no further corroborative evidence supporting the allegations against the respondent workman that he was rash and negligent in driving the bus and due to which there was vehicular accident. It is further submitted that on the contrary, criminal complaint came to be filed against the driver of the luxury bus and two passengers who were traveling in the bus have specifically given statement that it was the driver of the said luxury bus who was rash and negligent due to which the vehicular accident has taken place. Under the circumstances, it is requested to dismiss the present special civil application.

Heard the learned advocates for the parties.

(4) It is not in dispute that criminal complaint was filed only against the driver of the luxury bus to the effect that the driver of the luxury bus was rash and negligent due to which there was vehicular accident. It is also not in dispute that except the statement of the reporter who has submitted the report, there is no other corroborative evidence to support the allegations and/or charge against the respondent workmen that he was rash and negligent in driving the bus due to which there was

vehicular accident. On the contrary, two passengers have given their statement in which it is specifically stated that it was the driver of the said luxury bus who was rash and negligent in driving the luxury bus due to which there was a vehicular accident.

(5) Considering the aforesaid facts and circumstances of the case when on appreciation of evidence the Industrial Tribunal has allowed the reference by holding that the charge leveled against the respondent workman is not proved and that no case was made out against the respondent workman that he was rash and negligent in driving the bus due to which there was accident, the Tribunal, in my opinion, has rightly allowed the reference and rightly quashed and set aside the punishment imposed by the disciplinary authority. In that view of the matter, it cannot be said that the judgment and award passed by the Industrial Tribunal is so perverse which requires any inference of this Court while exercising the jurisdiction under Articles 226 and 227 of the Constitution of India. On the contrary, on going through the evidence and finding given by the Industrial Tribunal, the Tribunal was justified in allowing the reference in the facts and circumstances of the case. Hence, there is no substance in the present petition and same requires to be rejected and it is rejected accordingly.

Rule is discharged with no order as to costs.

[M.R.Shah, J.]

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